

Remarks

The present Amendment is submitted in response to the Office Action dated August 14, 2008, which set a three-month period for response. Claim 1 is amended to incorporate the subject matter of dependent claims 2 and 10 (now cancelled), as well as a part of the subject matter of amended claim 3, and claims 5, 11 and 16 are amended to address formal matters. Claims 1, 3-9 and 11-16 remain pending hereinafter, where claim 1 is the sole independent claim. Reconsideration and allowance of the application in view of the amendments above and the following remarks is respectfully requested.

In the Office Action, claims 1-6, 9-12 and 14-15 are rejected under 35 USC §102(b) as anticipated by US Patent No. 7,331,407 to Stirm, et al. (Stirm). Claims 7 and 8 are rejected under 35 USC §103(a) as unpatentable over Stirm. Claim 13 is rejected under 35 USC §103(a) as unpatentable over Stirm in view of US Patent No. 7,901,981 to Ousback (Ousback). Claim 16 is rejected under 35 USC §103(a) as unpatentable over Stirm in view of US Patent No. 4,828,046 to Pyatov (Pyatov).

In response, applicants respectfully submit that claims 1, 3-9 and 11-16 are patentable over Stirm, whether taken alone or in any combination with Ousback and Pyatov, for at least the following reasons.

After amendment, independent claim 1 call outs an electric power tool, in particular an electric hammer, having a drive unit (11) contained in a housing (10), an impact mechanism (12), and a handle (13), including a cam (14) that is

driven by the drive unit (11); the impact mechanism (12) has a piston (15) and a striker (16) and arranged to be moveable inside a separate guide cylinder (17) that is stationary in relation to the piston (15), striker (16) and the cam (14). The piston (15) is connected to the drive unit (11) by a drive element (18) and a Scotch Yoke slider crank (23) is provided to transmit the force between the cam (14) and the drive element (18).

Stirm, as distinguished, discloses a vibration reduction apparatus for use with a hammer tool comprising a hammer piston that reciprocates in a cylinder by rotation of a gear wheel and crank drive. Stirm's Fig. 8 shows a vibration reduction mechanism (701) and counterweight (721) in chamber (750) adjacent piston cylinder (730). Hammer piston is shown in the figure driven by a wobble plate (751) mounted to drive shaft (752).

Stirm, therefore, does not disclose a Scotch Yoke slider crank (23) provided to transmit the force between a cam and a drive element. Because amended independent claim 1 recites this limitation, which Stirm does not, Stirm does not anticipate the invention as claimed.

Applicants further respectfully assert that Stirm is not a proper reference under 35 USC §102 pursuant to the guidelines set forth in the last paragraph of MPEP §2131, where it is stated that "a claim is anticipated only if each and every element as set forth in the claims is not found, either expressly or inherently described, in a single prior art reference," and that "the identical invention must be shown in as complete detail as is contained in the ... claim."

Amended independent claim 1 is therefore patentable under 35 USC §102(b) over Stirm. Claims 3-6, 9, 11, 12, 14 and 15, which depend from claim 1, also are patentable under section 102(b) over Stirm for at least the same reasons, and claims 7 and 8 are patentable over Stirm under 35 USC §103(a). Applicants, therefore, respectfully request withdrawal of the rejection of claims 1, 3-6, 9, 11, 12, 14 and 15 over Stirm under section 102(b), withdrawal of the rejection of claims 7 and 8 over Stirm under 35 USC §103(a) and the allowance of each of claims 1, 3-9, 11, 12, 14 and 15.

In response to the rejection of claims 13 and 16 by Stirm under section 103(a) in view of Ousback and Pyatov, respectively, applicants assert that Ousback and Pyatov suffer the same shortcomings of Stirm as stated above. That is, both Ousback and Pyatov, like Stirm, fail to disclose, teach or suggest a Scotch Yoke slider crank provided to transmit the force between a cam and a drive element, as claimed. Applicants, therefore, respectfully request the withdrawal of the rejections of claims 13 and 16 under section 103(a) by Stirm respectively combined with Ousback and Pyatov.

Accordingly, the application as amended, including pending claims 1, 3-9 and 11-16, is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application in condition for allowance.

Respectfully submitted,

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